

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

SHELLEY D. ANDREWS,

**Plaintiff,**

V.

WASHINGTON STATE DEPARTMENT  
OF SOCIAL AND HEALTH SERVICES,  
et al.,

#### Defendants.

CASE NO. C15-5871 BHS

ORDER GRANTING  
DEFENDANT WASHINGTON  
STATE DEPARTMENT OF  
SOCIAL AND HEALTH  
SERVICES' MOTION TO  
DISMISS

This matter comes before the Court on Defendant Washington State Department of Social and Health Services’ (“DSHS”) unopposed motion to dismiss (Dkt. 13).

On April 14, 2016, DSHS filed the instant motion seeking to dismiss Plaintiff Shelley Andrews’s (“Andrews”) 42 U.S.C. § 1983 claims for damages against the State of Washington (“State”), DSHS, and Daniel Bauman (“Bauman”) in his official capacity.

*Id.* DSHS argues these defendants are not “persons” who may be sued under § 1983. *Id.*

On May 2, 2016, Andrews filed a response stating she does not oppose the motion. Dkt.

16.

1 A plaintiff may only maintain an action under § 1983 if the defendant was a  
2 “person” acting under color of state law. *See* 42 U.S.C. § 1983. States, state agencies,  
3 and state officials sued in their official capacity for damages are not “persons” under  
4 § 1983. *Will v. Mich. Dep’t of State Police*, 491 U.S. 58, 66 (1989); *Maldonado v.*  
5 *Harris*, 370 F.3d 945, 951 (9th Cir. 2004).

6 Because the State, DSHS, and Bauman in his official capacity are not “persons”  
7 who may be sued under § 1983, DSHS’s motion to dismiss (Dkt. 13) is **GRANTED**.  
8 Andrews’s § 1983 claims against the State, DSHS, and Bauman in his official capacity  
9 are **DISMISSED with prejudice**.

10 **IT IS SO ORDERED.**

11 Dated this 9th day of May, 2016.

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**BENJAMIN H. SETTLE**  
United States District Judge  
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